

Message Text

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C O N F I D E N T I A L BERLIN 5173

LIMDIS

DEPARTMENT PASS TO EUR/CE, SCA AND L

E.O. 11652: GDS

TAGS: PFOR, CGEN, PDIP, GE, US

SUBJECT: CONSULAR COVENTION NEGOTIATIONS: GDR CON-
SULAR CONVENTIONS WITH SOCIALIST STATES

1. SUMMARY:. A QUICK PERUSAL OF THE GERMAN LANGUAGE TEXTS
OF A NUMBER OF CONSULAR CONVENTIONS CONCLUDED BY THE GDR
WITH OTHER SOCIALIST COUNTRIES SHOWS THAT THE GDR HAS
NOT IN ANY INSTANCE THAT WE ARE AWARE OF REQUIRED
THE INCLUSION OF STATEMENTS THAT CITIZENSHIP OR NATIONALITY
OF A CONTRACTING PARTY TO SUCH A CONVENTION BE DEFINED
BY THE LAW OF THE COUNTRY. THIS SEPARATE REGIME ON
NATIONALITY FOR SOCIALIST STATES IS DISTINCT FROM WHAT
HAS BEEN DEMANDED IN THE CASE OF WESTERN COUNTRIES
AND SHOULD BE DEPT IN VIEW DURING THE FORTHCOMING
US-GDR TALKS. END SUMMARY.

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2. THE EMBASSY HAS CONCLUDED A QUICK REVIEW OF THE FOLLOWING CONSULAR CONVENTIONS CONCLUDED BY THE GDR WITH OTHER SOCIALIST STATES TO DETERMINE WHAT APPROACHES THE PARTIES HAVE ADOPTED REGARDING THE NATIONALITY QUESTION, SO TROUBLESOME TO WESTERN COUNTRIES AND NOW RECEIVING THE FULL GLARE OF PUBLICITY:

- A. PEOPLES REPUBLIC OF CHINA-JANUARY 27, 1959;
- B. NORTH VIETNAM- OCTOBER 9, 1959
- C. NORTH KOREA- JUNE 3, 1960;
- D. YUGOSLAVIA- FEBRUARY 12, 1964;
- E. CUBA- OCTOBER 27, 1969
- F. USSR- SEPT 3, 1971
- G. POLAND FEBRUARY 25, 1972
- H. BULGARIA JUNE 1, 1972
- I. CZECHOSLOVAKIA- JUNE 22, 1972
- J. HUNGARY- JUNE 28, 1972
- K. RUMANIA- NOVEMBER 15, 1972
- L. MONGOLIAN PEOPLES REPUBLIC-OCTOBER 12, 1973.

3. WE NOTE THAT NONE OF THESE CONVENTIONS USES LANGUAGE SIMILAR TO THAT APPARENTLY FOUND IN THE AUSTRO-GDR DRAFT OR IN ARTICLE 1, PARA. 2, OF THE GDR DRAFT HANDED TO THE DEPARTMENT SOME WEEKS AGO. THERE IS NO SPECIFIC STATEMENT THAT CITIZENSHIP OR NATIONALITY IS DEFINED BY THE LAW OF THE SENDING AND/OR RECEIVING STATE. WHAT IS FOUND IN THESE CONVENTIONS ARE ONLY REFERENCES TO CITIZENSHIP OR NATIONALITY OF THE SENDING OR RECEIVING STATES BUT NO SPECIFIC DEFINITION OF HOW SUCH CITIZENSHIP OR NATIONALITY IS TO BE DETERMINED.

4. THE VARIOUS CONVENTIONS MAKE USE OF DIFFERENT DEVICES TO GRAPPLE WITH THE NATIONALITY PROBLEMS WITHOUT SUCH EXPLICIT LANGUAGE. FOR EXAMPLE, THE FIRST ARTICLE IN THE CONVENTIONS WITH CZECHOSLOVAKIA, POLAND, BULGARIA, HUNGARY, MONGOLIAN PEOPLES REPUBLIC, YUGOSLAVIA AND THE USSR DEALS WITH DEFINITIONS: ALL THAT CAN BE FOUND ON THIS QUESTION IS SOME PHRASE SUCH AS (DER BEGRIFF "BUERGER DES ENTSSENDESTAATES" UMFASST AUCH CONFIDENTIAL

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JURISTISCHE PERSONEN) ("THE EXPRESSION' CITIZEN/NATIONAL OF THE SENDING STATE ALSO INCLUDES JURIDICAL PERSON.") OR ("STAATSBUERGER" UMFASST AUCH JURISTISCHE PERSONEN) ("CITIZEN' ALSO INCLUDES JURIDICAL PERSONS.")

5. THE CONVENTIONS WITH NORTH VIETNAM, ALBANIA, HUNGARY, CZECHOSLOVAKIA, POLAND AND BULGARIA IN THE CHAPTER THAT DEALS WITH FUNCTIONS AND DUTIES OF CONSULATES USES SOME

SUCH PHRASE AS (DIE KONSULN NEHMEN DIE RECHTE UND INTER-
ESSEN DES ENTESENDESTAATES SOWIE SEINER BUERGER UND
JURISTISCHE PERSONEN WAHR) ("THE CONSUL CONCERN THEM-
SELVES WITH THE RIGHTS AND INTERESTS OF THE SENDING
STATE AS WELL AS THEIR CITIZENS/ NATIONALS AND JURIDICAL
PERSON.") OR DIE KONSULN NEHMEN DIE RECHTE UND INTER-
ESSEN DES ENTESENDESTAATES SOWIE SEINER STAATSANGEHOERIGEN
BUERGER UND JURISTISCHE PERSONEN) WAHR.) ("THE
CONSUL CONCERN THEMSELVES WITH THE RIGHTS AND INTERESTS
OF THE SENDING STATE AS WELL AS THEIR CITIZENS (CITIZENS"
NATIONALS AND JURIDICAL PERSON).")

6. THE CONVENTIONS WITH THE USSR, THE MONGOLIAN PEOPLES
REPUBLIC, HUNGARY, BULGARIA, POLAND, CZECHOSLOVAKIA, AND
RUMANIA, IN THE CHAPTERS DEALING WITH CONSULAR FUNCTIONS,
MAKE REFERENCE TO CITIZENS OR NATIONALS OF THE SENDING OR
RECEIVING STATES BUT DO NOT DESCRIBE THE BASIS BY WHICH
SUCH CITIZENSHIP OR NATIONALITY IS DEFINED.

7. THE GDR AND THEIR SOCIALIST NEGOTIATING PARTNERS IN
THESE CONVENTIONS THUS DID NOT FEEL IT NECESSARY TO LINK
CITIZENSHIP OR NATIONALITY TO THE LAWS OF THE CONTRACTING
PARTIES. WHETHER THIS WAS BECAUSE THEY BELIVED THE
QUESTION WAS ACADEMIC (MANH OF THE CONVENTIONS WERE
CONTRACTED BEFORE THE INNER-GERMAN AGREEMENTS ENTERED
INTO FORCE) OR WHETHER THE PARTIES DECIDED TO AVOID WHAT
COULD BE A TROUBLESOME ISSUE, POSSIBLY EVEN FOR SOCIAL-
IST COUNTRIES OTHER THAN THE GDR, IS DIFFICULT TO
SURMISE.

8. WE NOTE FURTHER THAT, OF THE DOCUMENTS WE
STUDIED, THE BULGARIAN, POLISH AND SOVIET CONVENTIONS
WERE NEGOTIATED FOR THE GDR BY AMBASSADOR AUGUST
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KLOBES, WHO WILL BE HEADING THE TEAM VISITING WASHING-
TION FOR NEGOTICATIONS WITH THE UNITED STATES.COOPER

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